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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,528	10/28/2005	Takashi Yamaguchi	09867/0203136-US0	7134
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER HARPER, TRAMAR YONG	
			ART UNIT	PAPER NUMBER
			3714	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,528

Applicant(s)

YAMAGUCHI ET AL.

Examiner

TRAMAR HARPER

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The Examiner acknowledges the receipt of the amendments and arguments filed December 3, 2009. The arguments set forth are addressed herein below. Claims 1-3 remain pending and Claims 1-3 have been currently amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freifeld (US 7,072,792) in view of Ishimoto (US 5,088,955).

Claims 1-3: Freifeld discloses a remote control toy system comprising radio controlled cars. There is at least one controller that transmits control signals containing operation signals based on user input to a driving device or remote control car. The system further comprises an extension unit or scoreboard for receiving signals transmitted from the remote control cars. Each remote control car sending a different radio frequency signal in which the processor of the extension unit discriminates between the signals and outputs a unique audio sound corresponding to the specific car. The invention comprises r/c cars passing at least one gate and as the car passes the gate the car transmits such an event to the scoreboard, wherein the scoreboard updates and displays various information of the specific car involved in the race. The extension unit

or scoreboard includes a unit main body (22), a processor including signal processing (56), and a signal receiver (54). In summary the system is set such that when each car passes the at least one gate a unique frequency from each car is transmitted to the extension unit, wherein the extension unit as a result outputs a corresponding unique sound based on the received signal via a speaker (58). **Such sounds include realistic car sounds, engine roars, etc** (Col. 2:60-68, Col. 3:3-10, Col. 4:10-23, 40-45, 60-68, Col. 5:54-61, Col. 6:40-49, 61-67, Col. 71-6, Col. 8:30-39, 54-60, Col. 9:25-43, Figs. 1-2, 7, & 10-11).

Freifeld disclose the above, but excludes playing various sounds via the extension unit based on various received control signals of the respective cars. **It is well known in the art that control signals are received from the remote controller to a respective vehicle via a unique frequency/identifier, such that the signals do not interfere with other remote controlled vehicles. Furthermore, Freifeld clearly discloses the extension/scoreboard unit distinguishing between unique frequencies/identifiers of remote cars and outputting sound unique to the cars themselves.** An analogous art of Ishimoto teaches a remote control car system comprising at least one remote controlled vehicle and a controller. The controller sends control signals via a unique radio frequency and the vehicle discriminates or determines which control signal/operating instruction is being sent and as a result outputs the corresponding sound, via a speaker. For example, if a user inputs a reverse control signal then a brake sound is outputted. Such an invention adds to the realism of the toy device therefore increasing overall enjoyment of the device (Ishimoto Col. 1:48-55, Col.

2:1-22, 65-68, Col. 3:1-8, 39-41, Figs. 1-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Freifeld such that the extension unit or scoreboard receives the control signals, in addition to the vehicles, from the controllers and discriminates between control signals of the respective cars based on the unique frequencies/identifiers that the signals are sent, such that a corresponding sound respective of the control signal of the car is outputted, as taught by Ishimoto, to provide a more entertaining remote control toy system. Freifeld already teaches outputting unique sounds based on received frequencies from the r/c cars in attempts to add to the realism of the system (see *ID*). Therefore, modifying the system to achieve the above would be well within the realm of an artisan skilled in the art. **In regards to the newly added limitations, the above combination provides a system wherein an extension unit receives the control signals from various remote controllers and determines which signals corresponds to which car e.g. distinguishes between each control signal of each car based on the unique frequency/identifier and outputs sound corresponding to the received control signals of a respective car.**

Freifeld in view of Ishimoto discloses the above, but excludes the signal processing device detachable from the extension unit, the signal processing device being separate from the processing device of the extension unit, or a terminal and connecting portion. However, applicant fails to disclose that having the signal processing device detachable from the extension unit, the signal processing device being separate from the processing device of the extension unit, or a terminal and

connecting portion **solve any stated problem, provides an advantage, or is for any particular purpose**. Moreover, it appears that the processing device of Freifeld in view of Ishimoto, or applicant's invention, would perform the same function of providing a system from discriminating between output/control signals of respective cars and outputting corresponding sounds of such signals, **wherein signals are received via a receiver and processed via a processor linked to the receiver**. Therefore, it would have been prima facie obvious to modify Freifeld in view of Ishimoto to obtain the invention as specified in claims 1 and 3 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Freifeld in view of Ishimoto.

Response to Arguments

Applicant's arguments filed 12/03/09 have been fully considered but they are not persuasive. The 35 U.S.C. 112, first paragraph rejection has been withdrawn based on the applicant's provided rationale. In regards to the newly added limitations please see above. Applicant argues that one skilled in the art would not be motivated to combine Freifeld and Ishimoto in a manner that would place the sound effect device of Ishimoto within the scoreboard of Freifeld to arrive at the applicant's invention. However, the examiner respectfully disagrees. Freifeld alone teaches providing sound effects via the extension unit/scoreboard respective of unique frequencies received via remote cars. As such, the intent of the combination of references is to modify Freifeld such that the extension unit receives unique signals from the controllers respective of each car and outputting respective sound unique to the individual car based on operating instructions

embedded within the received signals. An artisan skilled in the art is taking the concept of receiving signals with control signals of respective cars and outputting the corresponding sound, as taught Ishimoto. Freifeld already teaches the extension unit outputting sound unique to signals of unique frequencies of respective cars and the intent of Ishimoto is to add such sounds based on received control signals of unique frequencies of the cars received from the controllers. In regards to the design rejection, the applicant has failed to disclose within the **specification** that having the signal processing device **detachable** from the extension unit, the signal processing device being separate from the processing device of the extension unit, and in conjunction with a terminal and connecting portion **solve any stated problem, provides an advantage, or is for any particular purpose**. The applicant states that the combination of Freifeld in view of Ishimoto fails to teach an independent extension unit, however the examiner respectfully disagrees. The extension unit of Freifeld in view of Ishimoto teaches a scoreboard or extension that separate from the driving vehicles and controllers of the system (see above); as such if for some reason the extension unit needed to be replaced or upgraded one skilled in the art could easily achieve such a task. As such the aesthetic rationale is maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/
Primary Examiner
Art Unit 3714

TH

02/27/10